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Tuesday, April 15, 2008

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Judge denies doctor's access to interviews

Published: Tuesday, April 15, 2008
By Sam Hemingway
Free Press Staff Writer

A Colchester orthopedic surgeon charged with improperly touching nine female patients during medical examinations cannot attend pre-trial lawyer interviews with the women or watch them via closed-circuit television, a judge has ruled.

Joseph Abate, 47, is facing 14 felony charges in the cases, including sexual assault, aggravated sexual assault, and lewd and lascivious conduct in connection with claims he touched or penetrated the genital areas of the patients, many of them student-athletes.

Abate, through his attorneys, has argued his examination procedures were proper and the state's case against him is a "tragic mistake."

Monday, Assistant Attorney General Cindy Maguire told Judge Linda Levitt during a pre-trial hearing that allowing Abate to be in the room when the women are questioned by Abate's lawyers would be too traumatic.

Levitt agreed.

"I don't see a good cause to have him present ... in light of the allegations against him," Levitt said.

Eric Miller, Abate's attorney, told Levitt he did not oppose the state's request to have Abate elsewhere when the interviews, called depositions, take place but said Abate has a right to be close by, watching the questioning on live closed-circuit TV.

"We don't want to put the complainants through any more trauma than a deposition would normally be," Miller told Levitt. Miller also said the women had already experienced being videotaped when they were questioned by detectives with the Chittenden Unit for Special Investigations.

"That's not the same," Levitt said.

Maguire told Levitt that lawyers for the women had advised her that even having Abate watching the questioning on closed-circuit TV would be a problem.

"Just the sense of him being there would be very intimidating," Maguire told the judge.

Levitt eventually ruled against allowing Abate to monitor the questioning via live closed-circuit TV or speaker phone. Levitt said Abate could be elsewhere in the building while the depositions are being conducted so Miller could periodically speak with him about what was being said in the interviews.

On another matter, Maguire told the judge that the state had found an expert witness willing to testify in court about Abate's examination procedures with the female patients.

In February, Maguire had told the judge the state was struggling to find a medical expert willing to testify against a fellow doctor.



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THIS WEEK IN PHOTOS

Joseph A. Abate of South Burlington, a Fletcher Allen Health Care orthopedic surgeon, is arraigned on 12 new charges involving sexual misconduct with female patients, at Vermont District Court in Burlington on November 1, 2007. Free Press file photo

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A nurse friend of mine asked, what? didn't he have a female nurse present at the exam? That is unheard of today, in the litigation environment.

Hank-Panky going on for sure. Not that many women could be wrong.

And JBT why is it if its a child or a priest, of course he did it, but a doctor, nay!

Posted: Tue Apr 15, 2008 5:35 pm

JBT: Right are they going to allow him to attend the trial. If so what is the difference.

Posted: Tue Apr 15, 2008 11:32 am

If he did it, he's scum...but I don't understand why he can't face his accusers.

JBT

Posted: Tue Apr 15, 2008 5:16 am

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The charges against Abate include four sexual assault charges, four aggravated sexual assault charges, and six lewd and lascivious conduct charges.

Abate, who is on leave from Fletcher Allen Health Care and his teaching duties at the University of Vermont, has been a longtime orthopedic physician for sports teams at the University of Vermont, St. Michael's College and various high schools.

Contact Sam Hemingway at 660-1850 or e-mail at shemingway@bfp.burlingtonfreepress.com

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